



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 22, 1996

Mr. Scott A. Durfee
General Counsel
Office of the District Attorney
Harris County
201 Fannin, Suite 200
Houston, Texas 77002-1901

OR96-1233

Dear Mr. Durfee:

Your predecessor has asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 24094.

The Harris County District Attorney (the "district attorney") received a request for the district attorney's files regarding Johnny Torres. You state that the district attorney will release those documents that were filed with the district clerk in the course of the criminal prosecution. You claim that the remainder of the requested information is excepted from disclosure by sections 552.101, 552.103, 552.108, and 552.111 of the Government Code.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Former section 34.08 of the Family Code provides, in part:

Except as provided in Subsections (b) and (c) of this section, the reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code under regulations adopted by the investigating agency.¹

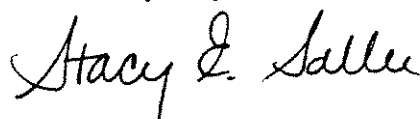
¹We note that section 34.08 of the Family Code was repealed in the last legislative session. Act of April 6, 1995, 74th Leg., R.S., ch. 20, § 2, 1995 Tex. Sess. Law Serv. 113, 282 (Vernon). Section 261.201 was added to the Family Code in the last legislative session and became effective, as amended, on September 1, 1995. Act of April 6, 1995, 74th Leg., R.S., ch. 20, § 1, 1995 Tex. Sess. Law Serv. 113, 262 (Vernon); Act of May 25, 1995, 74th Leg., R.S., ch. 751, §§ 93, 129, 1995 Tex. Sess. Law Serv. 3888, 3924, 3933 (Vernon). We apply the former law, as the request for information was received by the

(Footnote added). The other provisions of section 34.08 do not appear to apply here. We are not aware of any rules promulgated by the district attorney which permit the dissemination of this type of information. Accordingly, some of the requested information is made confidential by section 34.08 of the Family Code and must be withheld from disclosure under section 552.101 of the Government Code. See Open Records Decision No. 440 (1986) (applying former Fam. Code § 34.08). We have marked the information that must be withheld under section 552.101.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 39 Tex. Sup. Ct. J. 781, 1996 WL 325601 (June 14, 1996). We note, however, that information normally found on the front page of an offense report is generally considered public.² *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). We conclude that, with the exception of information that would normally appear on the first page of an offense report, section 552.108 of the Government Code excepts the remainder of the closed files from required public disclosure.³

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

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(Footnote continued)

governmental body before September 1, 1995. However, we note that the result would be the same regardless of which law we applied to the requested information.

²The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

³We note that common-law privacy excepts from disclosure first page offense report information in the file involving the sexual assault of a child.

Ref.: ID# 24094

Enclosures: Submitted documents

cc: Ms. Hope Edmondson
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(w/o enclosures)